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04-03-d

PTO/SB/29 (12/97)

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# UTILITY PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Attorney Docket No. 9301-136 Total Pages

First Named Inventor or Application Identifier

Matthew Marton

Express Mail Label No. EL 501 638 274 US

## APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

ADDRESS TO: Assistant Commissioner for Patents  
Box Patent Application  
Washington, DC 20231

- ☒ Fee Transmittal Form  
*Submit an original, and a duplicate for fee processing)*
- ☒ Specification (including Table of Contents) [Total Pages 58]  
*(preferred arrangement set forth below)*

-Descriptive title of the Invention  
-Cross Reference to Related Applications  
-Statement Regarding Fed sponsored R&D  
-Reference to Microfiche Appendix  
-Background of the Invention  
-Brief Summary of the Invention  
-Brief Description of the Drawings (if filed)

-Detailed Description of the Invention (including drawings, if filed)

Claim(s)

-Abstract of the Disclosure

- ☒ Drawing(s) (35 USC 113) [Total Sheets 11]

- ☒ Oath or Declaration [Total Sheets 2]

a) ☐ Newly executed (original or copy)

b) ☐ Copy from a prior application (37 CFR 1.63(d))  
*(for continuation/divisional with Box 17 completed)*

### [Note Box 5 below]

☐ DELETION OF INVENTOR(S)

Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33 (b).

- ☒ Incorporation By Reference (useable if Box 4b is checked)  
The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied under Box 4b, is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.

- ☐ Microfiche Computer Program (Appendix)
- ☐ Nucleotide and/or Amino Acid Sequence Submission (if applicable, all necessary)
  - ☐ Computer Readable Copy
  - ☐ Paper Copy (identical to computer copy)
  - ☐ Statement verifying identity of above copies

## ACCOMPANYING APPLICATION PARTS

- ☐ Assignment Papers (cover sheet & document(s))
- ☐ 37 CFR 3.73(b) Statement ☒ Power of Attorney (when there is an assignee)
- ☐ English Translation Document (if applicable)
- ☐ Information Disclosure Statement (IDS)/PTO-1449 Citations
- ☒ Preliminary Amendment
- ☒ Return Receipt Postcard (MPEP 503) (Should be specifically itemized)
- ☒ Small Entity Statement(s) (copy from prior application)
  - ☒ Statement filed in prior application, Status still proper and desired
- ☐ Certified Copy of Priority Document(s) (if foreign priority is claimed)
- ☒ Other: Preliminary Amendment Fee Transmittal

- If a CONTINUING APPLICATION, check appropriate box and supply the requisite information:

☐ Continuation ☒ Divisional ☐ Continuation-in-part (CIP) of prior application No. 09/222,582 filed December 28, 1998.

## 18. CORRESPONDENCE ADDRESS

☒ Customer Number or Bar Code Label

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COUNTRY

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FAX

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box Patent Application, Washington, DC 20231.

Express Mail No.: EL 501 638 274 US**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**Prior application: Examiner S. SiuArt Unit 1631

Assistant Commissioner for Patents  
 Box PATENT APPLICATION  
 Washington, D.C. 20231

Sir:

This is a request for filing a ☐ continuation ☒ divisional application under 37 CFR § 1.53(b), of pending prior application no. 09/222,582 filed on December 28, 1998.

of Matthew Marton and Roland Stoughton

(inventor(s) currently of record in prior application)

for METHODS FOR DETERMINING THERAPEUTIC INDEX FROM GENE EXPRESSION PROFILES

(title of invention)

1. ☒ The filing fee is calculated below in view of the preliminary amendment made in paragraph 2 below:

**PATENT APPLICATION FEE VALUE**

TYPE	NO. FILED	LESS	EXTRA	EXTRA RATE	FEE
Total Claims	44	-20	24	\$18.00 each	\$ 432.00
Independent	4	-3	1	\$78.00 each	\$ 78.00
Basic Fee					\$ 710.00
Multiple Dependency Fee If Applicable (\$270.00)					\$ 0.00
Total					\$ 1,220.00
50% Reduction for Independent Inventor, Nonprofit Organization or Small Business Concern					- \$ 610.00
Total Filing Fee					\$ 610.00

2. ☒ Cancel claims 45-63 without prejudice.
3. ☒ Please charge the required fee to Pennie & Edmonds LLP Deposit Account No. 16-1150. A copy of this sheet is enclosed.
4. ☐ Amend the specification by inserting before the first line the following sentence: This is a continuation, division, of application no. , filed .
- 4a. ☐ Transfer the drawings from the prior application to this application and abandon the prior application as of the filing date accorded this

application. A duplicate copy of this sheet is enclosed for filing in the prior application file.

- 4b. ☐ New formal drawings are enclosed.
- 4c. ☒ Informal drawings are enclosed.
- 5a. ☐ Priority of application no. filed on in is claimed under 35 U.S.C. §119.
- 5b. ☐ The certified copy has been filed in prior application no. , filed .
- 6. ☒ The prior application is assigned of record to Rosetta Inpharmatics, Inc.
- 7a. ☒ The Power of Attorney appears in the original papers in the prior application no. 09/222,582, filed December 28, 1998.
- 7b. ☐ Since the Power of Attorney does not appear in the original papers, a copy of the Power in prior application no. , filed is enclosed.
- 8. ☐ This application contains nucleic acid and/or amino acid sequences required to be disclosed in a Sequence Listing under 37 CFR §§1.821-1.825. It is requested that the Sequence Listing in computer readable form from prior application no., filed on be made a part of the present application as provided for by 37 C.F.R. §1.821(e). The sequences disclosed therein are the same as the sequences disclosed in this application. A copy of the paper Sequence Listing from application no. is enclosed.
- 9. ☐ The undersigned states, under 37 C.F.R. §1.821(f), that the content of the enclosed paper Sequence Listing from application no. is the same as the content of the computer readable form submitted in application no. .
- 10. ☒ Additional enclosures or instructions: Preliminary Amendment.

Respectfully submitted,

Date April 2, 2001

*Adriane M. Antler* 32,602  
 Adriane M. Antler (Reg. No.)  
 PENNIE & EDMONDS LLP  
 1155 Avenue of the Americas  
 New York, N.Y. 10036-2711  
 (212) 790-9090

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**In re Application of: Marton et al.Application No.: To be assigned; Division of  
Serial No. 09/222,582, filed  
December 28, 1998

Group Art Unit: To be assigned

Filed: On even date herewith

Examiner: To be assigned

For: **METHODS FOR DETERMINING  
THERAPEUTIC INDEX FROM GENE  
EXPRESSION PROFILES**

Attorney Docket No.: 9301-136

**FEE TRANSMITTAL SHEET**Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

The fee required to be filed with the accompanying preliminary amendment of even date herewith concerning the above-identified application has been estimated to be \$141.

The claim amendment fee has been estimated as shown below:

(Col. 1)		(Col. 2)		(Col. 3)		SMALL ENTITY		OTHER THAN A SMALL ENTITY	
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO PREVIOUSLY PAID FOR		PRESENT EXTRA	RATE	ADDIT. FEE	OR	RATE
									ADDIT FEE
TOTAL	51	MINUS	44	=	7	× 9	\$ 63.00	× 18	\$
INDEP.	6	MINUS	4	=	2	× 40	\$ 78.00	× 78	\$
<input type="checkbox"/> FIRST PRESENTATION OF MULTIPLE DEP. CLAIM						135	\$	270	\$
						TOTAL	\$ 141.00	OR	TOTAL \$

Please charge the required fee to Pennie & Edmonds LLP Deposit Account No. 16-1150.  
A copy of this sheet is enclosed.

Respectfully submitted,

Date April 2, 2001

*Adriane M. Antler* 32,605  
Adriane M. Antler (Reg. No.)

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Enclosure